IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Con.Case(C).No. 1041 of 2007(S)

AGAINST THE JUDGEMENT IN W.P.(C).NO.4531/2007 DATED 27/02/2007

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PETITIONER/PETITIONER:

KERALA INSTITUTE OF MEDICAL SCIENCES,
REPRESENTED BY ITS EXECUTIVE DIRECTOR
E.M.NAJEEB, S/O J.M.ELIYAS, AGED 52 YEARS,
ANAYARA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.SUDHEER.

RESPONDENTS:

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1. **M.K.RAMACHANDRAN NAIR,**
   (FATHER'S NAME AND AGE NOT KNOWN TO THIS
   PETITIONER) VICE CHANCELLOR,
   UNIVERSITY OF KERALA, THIRUVANANTHAPURAM.

2. **K.A.HASHIM, AGED 50 YEARS,**
   S/O T.N.ABOOBACKER, REGISTRAR,
   UNIVERSITY OF KERALA, THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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Cont.Case(C).1041/2007 &

I.A.10029/2007 in WP(C).4531/2007-M

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Dated this the 10th day of August, 2007.

JUDGMENT

The petitioner, among other things, applied for an affiliation of a college. The University insisted that the original title deeds of the property of the college should be deposited with the University during the period of affiliation by handing the same over to the Registrar. While adjudicating the writ petition and delivering the judgment dated 27-2-2007, it was noticed that the intention of the University was to ensure that after obtaining the affiliation, the institution does not sell off the properties thereby reducing the total area of land available with it in such a manner that the minimum statutory requirements regarding the extent of available land are not satisfied.

Accordingly, by the judgment it was directed that instead of depositing the original title deeds, it would be sufficient if the petitioner has executed or executes an agreement in favour of the University, agreeing to keep in tact such lands as are required for the purpose of complying with the statutory requirements and if such agreement is executed, the University shall not object to the petitioner utilizing the remaining property to be provided as security or otherwise, for the purpose of availing financial support for the institution.

2. I.A.10029/2007 is filed seeking that the word "remaining" in the fourth sentence in the judgment dated 27-2-2007 may be deleted. There is stiff opposition by the University to this request. What has been provided by that judgment is that the agreement that the petitioner executes has to satisfy the requirement of the University that the lands as are required for the purpose of complying with the

statutory requirements are kept in tact and that the same cannot be withered away by any process which would defeat the purpose of affiliation. This was so because, any loss of affiliation subsequently would ultimately affect the students who are admitted to the courses for which affiliation is granted. Therefore, it is clarified that the execution of agreement in favour of the University in terms of the judgment dated 27-2-2007 has to be for the purpose of also ensuring that the petitioner can put the property to such use, including to raise finance for the purpose of the institution.

3. The contempt of court case is filed on the premise that notwithstanding the directions in the judgment, the University is insisting on the agreement to be a registered one. Annexure-I produced along with the Statement filed in answer to the contempt of court case is the copy of the communication issued to the different institutions in this regard. The University has insisted as per that letter that the

agreements should be registered and the managements are to submit encumbrance and possession certificates annually. Such a condition would necessarily result in the agreements in favour of the University being reflected in the encumbrance certificates. Though the learned counsel for the petitioner points out that this may cause unnecessary hurdles in the course of processing loan applications of the petitioner, I find that the larger public interest to ensure compliance of the statutory requirements and thereby protect the interests of the students, has to prevail and therefore, the mere fact that such a condition may find a place in the encumbrance certificate is no reason to insist that University shall not stand by such a condition. The fact that the statutory provisions do not prescribe such a condition is also not decisive in the situation because, the Universities are well within authority to take such decisions as are required in the management of such situation with the passage of time and such situations would not have been conceived in the statutory rules. This

power and authority is easily traceable to the autonomous status that a University has and because the prime concern of the University is education of the students and the institutions which get affiliated are only for the purpose of achieving such objectives. Therefore, there is no illegality in the directions issued by the University as per Annexure-I that the managements shall submit registered agreements in favour of the University.

For the aforesaid reasons, subject to the clarifications given above, the contempt of court case does not deserve to be proceeded with and is hence closed. The interlocutory application would also stand disposed of in terms of what is stated above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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